



COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

FIRST SECTION

CASE OF DEĞERLİ v. TURKEY

(Application no. 31896/96)

JUDGMENT
(Friendly Settlement)

STRASBOURG

22 May 2001

In the case of Değerli v. Turkey,

The European Court of Human Rights (First Section), sitting as a Chamber composed of:

Mrs E. PALM, *President*,

Mr L. FERRARI BRAVO,

Mr GAUKUR JÖRUNDSSON,

Mr B. ZUPANČIČ,

Mr T. PANȚIRU,

Mr R. MARUSTE, *judges*,

Mr F. GÖLCÜKLÜ, *ad hoc judge*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 17 October 2001 and on 3 May 2001,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case originated in an application (no. 31896/96) against the Republic of Turkey lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Turkish national, Mehmet Değerli ("the applicant"), on 3 June 1996.

2. The applicant was represented by Mr Niyazi Çem, a lawyer practising in Istanbul (Turkey). The Turkish Government ("the Government") did not designate an Agent for the purposes of the proceedings before the Court.

3. The applicant complained that he had been a victim of a violation of Article 5 § 3 of the Convention on account of excessive length of his detention in police custody for 8 days without being brought before a judge or other officer authorised by law to exercise judicial power.

4. Following communication of the application to the Government by the Commission, the case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention.

5. The application was allocated to the First Section of the Court (Rule 52 § 1 of the Rules of Court). Within that Section, the Chamber that would consider the case (Article 27 § 1 of the Convention) was constituted as provided in Rule 26 § 1 of the Rules of Court. Mr Rıza Türmen, the judge elected in respect of Turkey, withdrew from sitting in the case (Rule 28). The Government accordingly appointed Mr Feyyaz Gölcüklü to sit as an *ad hoc* judge in his place (Article 27 § 2 of the Convention).

6. On 17 October 2000, after obtaining the parties' observations, the Court declared the application admissible.

7. On 9 February 2001, after an exchange of correspondence, the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 20 February 2001 and on 19 March 2001 the applicant's representative and the Agent of the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

8. On 4 December 1995 police officers from the anti-terrorist branch of the Istanbul Security Directorate arrested the applicant on suspicion of membership of the PKK.

9. On 12 December 1995 a single judge of the Istanbul State Security Court ordered the applicant's detention on remand.

10. On 13 December 1995 the Chief Public Prosecutor filed a bill of indictment with the Istanbul State Security Court charging the applicant with membership of the PKK and having obtained money by extortion from S.E. for the said organisation, contrary to Articles 168 § 2, 495 and 522 of the Turkish Criminal Code.

11. On 28 November 1996 the Istanbul State Security Court acquitted the applicant of membership of the PKK, but convicted him, under Article 498 of the Criminal Code, of having obtained money by extortion from S.E. by using the name of the PKK. The court sentenced the applicant to 12 years and 3 months' imprisonment. The applicant appealed.

12. On 28 April 1998 the Court of Cassation upheld the applicant's conviction and sentence.

THE LAW

13. On 19 March 2001 the Court received the following declaration from the Government:

"I declare that the Government of Turkey offer to pay the amount of 25,000 French francs on an *ex gratia* basis to Mr Mehmet Değerli with a view to securing a friendly settlement of the application registered under no. 31896/96. This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable immediately after the notification of the judgment delivered by the Court pursuant to Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention."

14. On 20 February 2001 the Court received the following declaration from the applicant's representative:

"I note that the Government of Turkey are prepared to pay a sum totalling 25,000 French francs on an *ex gratia* basis covering both pecuniary and non-pecuniary damage and costs to Mr Mehmet Değerli with a view to securing a friendly settlement of the application no. 31896/96 pending before the Court.

I accept the proposal and waive any further claims in respect of Turkey relating to the facts of this application. I declare that the case is definitely settled.

This declaration is made in the context of a friendly settlement which the Government and the applicant have reached.

I further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court's judgment."

15. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

16. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
2. *Takes note* of the parties' undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 22 May 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Elisabeth PALM
President